

Board of Commissioners Resolution

15 West Kellogg Blvd.
Saint Paul, MN 55102
651-266-8350

Sponsor: Public Works

Meeting Date: 10/6/2020

Item Number: 2020-286

Title: Disclaim and Extinguish Interest in Unused Right-of-Way

Background:

A recent review of a proposed subdivision plat revealed that the land included an interest in favor of County of Ramsey ("County") as road right-of-way that is not currently being used and does not appear to be necessary for current or planned needs.

The unused county road right-of-way is located east of Lexington Avenue and south of County Road C2 in Roseville in the Northeast Quarter of the Southeast Quarter of Section 3, Township 29, Range 23 and the Northwest Quarter of the Southwest Quarter of Section 2, Township 29, Range 23, all in Ramsey County, Minnesota. The legal description which contains unused right of way is, "Within LEXINGTON WOODS, according to the recorded plat thereof."

Review of the history of the right-of-way demonstrates that the right-of-way was created in 1877 through an order of the Ramsey County Board of Commissioners opening the county road, now known as Lexington Avenue. The order did not clearly define a specific location for the road, and it appears there may have been several alignments of Lexington Avenue in the area since 1877, including the identified right-of-way that follows the section line.

Under the common law doctrine of prescriptive use and application of Minnesota Statute Section 160.05 and its predecessor laws, land which is used as a road, regardless of the source of that use, is deemed dedicated to the public as right-of-way. Therefore, it is likely that the various alignments have been deemed by operation of law as dedicated to the public.

The current alignment of Lexington Avenue has remained the same since approximately 1960, when it was located to its current alignment to provide for a safer roadway.

The extinguishment of unused rights-of-way that are not recorded against the property and are not currently used or needed for foreseeable public uses, would return the property to unencumbered use by the property owner, would help clear the title to the property, would remove land that requires County maintenance and eliminates risk and potential liabilities associated with the historic property interests. Therefore, the County Engineer recommends extinguishing all interest in the unused rights-of-way. The County may extinguish its interest in the county highway pursuant to Minnesota Statute Section 163.11, subdivision 7 if:

- (1) the interest is not a fee interest;
- (2) the interest was established more than 40 years earlier;
- (3) the interest is not recorded with the county recorder;
- (4) no highway improvement has been constructed on a right-of-way affected by the interest; and

(5) no highway maintenance on a right-of-way affected by the interest has occurred within the last 40 years.

The County's interest in the county highway right-of-way was acquired by road order, prescription, or dedication. As such, the interest is equivalent to an easement, and not fee title interest.

The County's unused right-of-way was acquired prior to 1960, which is over 40 years ago.

A review of the records of the County Recorder indicate that the unused rights-of-way are not recorded.

No highway currently exists on the unused rights-of-way and no improvement or maintenance has been performed since before 1960.

Therefore, Ramsey County may extinguish the interest in the highway by adopting a resolution disclaiming and extinguishing any interest in the rights-of-way and filing and recording the resolution with the County Auditor and County Recorder.

Recommendation:

The Ramsey County Board of Commissioners resolved to:

1. Approve the disclamation and extinguishment of the County's interest in the unused county road right-of-way located east of Lexington Avenue and south of County Road C2 in the Northeast Quarter of the Southeast Quarter of Section 3, Township 29, Range 23 and the Northwest Quarter of the Southwest Quarter of Section 2, Township 29, Range 23, all in Ramsey County, Minnesota.
2. Request that a copy of this resolution be filed with the County Auditor, County Recorder and County Registrar.

A motion to approve was made by Commissioner McGuire, seconded by Commissioner Reinhardt. Ayes – 7: Frethem, MatasCastillo, McDonough, McGuire, Ortega, Reinhardt, Carter. Motion passed.

By: _____
Janet M. Guthrie, Chief Clerk – County Board